IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4757 OF 2004

Pallavi Vijen Jhaveri ...Applicant

Versus

State of Maharashtra & Anr. ...Respondents

.....

Mr.Rajiv Patil i/b Mayur Narendra & Co.
for Applicant.
Mr.A.S.Gadkari, A.P.P. for Respondent No.1.

.....

CORAM: A.M.KHANWILKAR, J.

NOVEMBER 29, 2004.

P.C.

1. Heard Counsel for the parties. Broadly, two reliefs have been claimed in this Application.

2. The first relief is for quashing the criminal action instituted by the Respondent No.2/complainant. Insofar as that relief is concerned, I see no reason to interfere in exercise of inherent jurisdiction. The only argument

canvassed before me is that there is material on record to indicate that the Applicant has already paid the entire amount to the Respondent No.2/complainant and if it is so, no criminal action could be proceeded with, especially on the basis of blank cheques which were issued in anterior point of time. This submission, however, overlooks that this argument would be relevant at the time of the trial and cannot be the basis for quashing criminal action. This is so, because there is legal presumption with regard to the cheques in question and that legal presumption will have to be rebutted during the trial by the Applicant. Viewed in this perspective, not a case for quashing in exercise of inherent jurisdiction.

3. The second prayer in this Application is for clarification that the Applicant is entitled to travel abroad on terms and conditions imposed in order dated 6th May 2004 passed by the Sessions Court and the Applicant need not be required to approach the Trial Court for such permission from time to time. Indeed, the Applicant may be justified in relying upon the order passed by the

Sessions Court dated 6th May 2004 which has set aside the earlier order passed by the Trial Court refusing such permission. But the fact remains that the trial is still pending and in such a situation, it is open to the Trial Court to require the Applicant to seek prior permission before travelling abroad. Indeed, the Trial Court will be governed by the settled principles while considering such application, if filed.

4. In the circumstances, without expressing any final opinion on the said aspect, the Applicant will be at liberty to approach the Trial Court for such permission from time to time and if such application is filed, the Trial Court shall decide the same preferably on the date of its presentation, if prior notice is given to the other side and in any case, not later than one week from the date of institution of such application.

5. Application disposed of on the above terms.

A.M.KHANWILKAR, J.